

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Section 63.71 Application of Embarq Florida, Inc.)
d/b/a CenturyLink, a Lumen Company, for) WC Docket No. 21-298
Authority Pursuant to Section 214 of the)
Communications Act of 1934, as Amended, to)
Discontinue a Telecommunications Service)

ORDER

Adopted: October 22, 2021

Released: October 22, 2021

Comment Date in Response to the Application: November 24, 2021

Reply Date in Response to the Application: December 16, 2021

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. By this Order, the Wireline Competition Bureau (Bureau) of the Federal Communications Commission grants a request filed by Public Knowledge, Benton Institute for Internet & Society, Center for Rural Strategies, Common Sense Media, Communications Workers of America, INCOMPAS, and Media Alliance (collectively, Consumer & Competition Advocacy Organizations) for extensions of the comment and reply comment deadlines¹ established by the Bureau in response to an application filed by Embarq Florida, Inc. d/b/a CenturyLink, a Lumen company (CenturyLink) in the above-captioned proceeding. CenturyLink's application requests authority under section 214 of the Communications Act of 1934, as amended,² and section 63.71 of the Commission's rules,³ to discontinue legacy voice service to 26 customers on Little Gasparilla Island, Florida that would result in a technology transition (the Application).⁴ Comments and reply comments were originally due on November 3, 2021 and November

¹ Section 63.71 Application of Embarq Florida, Inc. d/b/a CenturyLink, a Lumen company, for Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Discontinue a Telecommunications Service, WC Docket No. 21-298, Consumer & Competition Advocacy Organizations Request for Extension of Time to File Comments (filed Oct. 18, 2021) (Extension Request); see also Section 63.71 Application of Embarq Florida, Inc. d/b/a CenturyLink, a Lumen company, for Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Discontinue a Telecommunications Service, WC Docket No. 21-298, Consumer & Competition Advocacy Organizations Correction to Request for Extension of Time to File Comments (filed Oct. 19, 2021) (Correction to Extension Request).

² 47 U.S.C. § 214.

³ 47 CFR § 63.71.

⁴ Section 63.71 Application of Embarq Florida, Inc. d/b/a CenturyLink, a Lumen company, for Authority Pursuant to Section 214 of the Communications Act of 1934, as Amended, to Discontinue a Telecommunications Service, WC Docket No. 21-298 (filed July 14, 2021) (Application), https://www.fcc.gov/ecfs/search/filings?proceedings_name=21-298&sort=date_disseminated_DESC.

18, 2021, respectively. Pursuant to this Order, the extended comment date is November 24, 2021 and the extended reply comment date is December 16, 2021.

II. BACKGROUND

2. On July 14, 2021, CenturyLink filed an application with the Commission requesting authority, under section 214 of the Act and section 63.71 of the Commission's rules, to discontinue the legacy voice service that it offers in the Service Area, relying on the adequate replacement test established by the Commission in 2016 for evaluating technology transition discontinuance applications.⁵ On October 4, 2021, the Bureau released a *Public Notice* indicating that the Application did not qualify for streamlined processing because "CenturyLink's application does not make the *prima facie* showing necessary for an applicant relying on the service of a third-party provider for the replacement service."⁶ The Bureau also explained that "this is the first instance of a third-party mobile wireless voice service serving as the replacement service for legacy voice service in a technology transition discontinuance application," and "in the absence of a prior first party showing that one or more of these mobile wireless services satisfies the adequate replacement test, a *prima facie* showing is difficult to make."⁷

3. The *Public Notice* established 30 and 45-day deadlines, respectively, for filing comments and reply comments in response to the Application.⁸ On October 18, 2021, the Consumer & Competition Advocacy Organizations filed a request seeking to extend the deadlines for filing comments and reply comments by 21 and seven days, respectively.⁹ The Consumer & Competition Advocacy Organizations assert that "this matter has unique, precedent-setting importance to the phase out of legacy telephone service to millions of Americans outside of the relevant service area" and that they "require time to adequately examine the record, reach out to impacted stakeholders, and provide robust comments for the record."¹⁰ The Consumer & Competition Advocacy Organizations submit that "grant of the extension at

⁵ Application at 2. A technology transition is defined as "any change in service that would result in the replacement of a wireline TDM-based voice service with a service using a different technology or medium for transmission to the end user, whether internet Protocol (IP), wireless, or another type." 47 CFR § 63.60(i). When evaluating discontinuance applications, the Commission traditionally considers five factors in order to balance the interests of the carrier and the affected community: (1) the financial impact on the common carrier of continuing to provide the service; (2) the need for the service in general; (3) the need for the particular facilities in question; (4) increased charges for alternative services; and (5) the existence, availability, and adequacy of alternatives. See *Technology Transitions et al.*, WC Docket No. 13-5 et al., Declaratory Ruling, Second Report and Order, and Order on Reconsideration, 31 FCC Rcd 8283, 8304, para. 62 (2016) (*2016 Technology Transitions Order*); *Application for Authority Pursuant to Section 214 of the Communications Act of 1934 to Cease Providing Dark Fiber Service*, File Nos. W-P-C 6670 and W-P-D 364, 8 FCC Rcd 2589, 2600, para. 54 (1993), *remanded on other grounds*, *Southwestern Bell v. FCC*, 19 F.3d 1475 (D.C. Cir. 1994). In 2016, the Commission concluded that in the context of a technology transition, the availability of adequate alternative services is of greater importance than the other four factors traditionally considered by the Commission in evaluating discontinuance applications. *2016 Technology Transitions Order*, 31 FCC Rcd at 8304, para. 62. It thus concluded that an application to discontinue a legacy voice service is eligible for streamlined processing only if it satisfies a newly-developed test to determine the adequacy of a replacement service. *Id.* at 8304-05, para. 64; see also 47 CFR § 63.71(f)(2)(i). In 2018, the Commission adopted an additional test providers may use to qualify for streamlined treatment for technology transition discontinuances. See 47 CFR § 63.71(f)(2)(ii). This additional test is not applicable to this Application.

⁶ Comments Invited on Section 214 Application of Embarq Florida, Inc. d/b/a CenturyLink to Discontinue Legacy Voice Service as Part of a Technology Transition, WC Docket No. 21-298, Public Notice, DA 21-1247, at 1-2 (Oct. 4, 2021) (*Public Notice*).

⁷ *Id.* at 2.

⁸ *Id.*

⁹ Extension Request at 1; Correction to Extension Request at 1.

¹⁰ Extension Request at 2. They further note that "the comment period falls during INCOMPAS' major trade show, further limiting the ability of staff to engage on this important matter." *Id.*

this early stage will not significantly delay this process and will significantly improve the record for the FCC's consideration."¹¹ According to the Consumer & Competition Advocacy Organizations, CenturyLink does not oppose the requested extension,¹² nor has any party filed an opposition.

III. DISCUSSION

4. As set forth in section 1.46 of the Commission's rules, it is the policy of the Commission that extensions of time shall not be routinely granted.¹³ However, extensions may be considered "to the extent that good cause for an extension is demonstrated."¹⁴ The criteria for granting requests for extensions of time "are that the extension be in the public interest, cause no harm to any party in the proceeding, and cause no significant delay."¹⁵ The Commission has previously found that an extension of time is warranted when it is "necessary to ensure that the Commission receives full and informed responses and that affected parties have a meaningful opportunity to develop a complete record for the Commission's consideration."¹⁶

5. Here, we find good cause to extend the deadline to file comments and reply comments in response to the Application, as proposed by the Consumer & Competition Advocacy Organizations and unopposed by CenturyLink. We appreciate what appears to be the unanimous support of interested parties for more fully developing the record in this proceeding. By extending the deadlines to file comments and reply comments on the Application by 21 day and seven days, respectively, we are persuaded that all interested parties will be granted sufficient time to meaningfully respond to the unique circumstances presented by the Application.¹⁷ Accordingly, we extend the deadline to file comments and reply comments in response to the Application to November 24, 2021 and December 16, 2021, respectively.¹⁸

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED, pursuant to sections 0.204, 0.291, and 1.46 of the Commission's rules, 47 CFR §§ 0.204, 0.291, 1.46, that the Request for Extension of Time filed by the Consumer & Competition Advocacy Organizations on October 18, 2021 is GRANTED as described herein.

7. IT IS FURTHER ORDERED that the dates for filing comments and reply comments in response to the Application are EXTENDED to November 24, 2021 and December 16, 2021, respectively.

¹¹ *Id.* at 5.

¹² *Id.*

¹³ 47 CFR § 1.46.

¹⁴ *See, e.g., Audio Enterprises, Inc. Apparent Liability for Forfeiture*, File No. ENF-88-04, Order, 3 FCC Rcd 5402, para. 2 (Com. Car. Bur. 1988).

¹⁵ *Id.*

¹⁶ *See, e.g., Wireless E911 Location Accuracy Requirements*, PS Docket No. 07-114, Order, 35 FCC Rcd 193, 194, para. 3 (PSHSB 2020); *see also Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Order, 35 FCC Rcd 2998, 2999 para. 6 (WCB & OEA 2020).

¹⁷ *See* Extension Request at 5 (asserting that the Application presents "novel questions of law and policy").

¹⁸ Both the original and corrected Extension Request ask for a seven day extension of the reply period set forth in the *Public Notice*, which CenturyLink did not oppose. While the *Public Notice* adopted a reply period of 15 days, the Extension Request and the Correction to Extension Request mistakenly referred to a 14-day reply period, with the latter specifying an extended reply date of December 15, 2021. Given that both the Extension Request and the Correction to Extension Request consistently request a seven day extension of the reply period set by the *Public Notice*, the Bureau extends the reply comment deadline, accordingly, to December 16, 2021.

8. To request materials in accessible formats (such as Braille, large print, electronic files, or audio format), send an email to: fcc504@fcc.gov, or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY).

9. For further information concerning this Order, please contact Michele Levy Berlove of the Wireline Competition Bureau, Competition Policy Division, at (202) 418-1477 or michele.berlove@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief
Wireline Competition Bureau